ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST CORPORATION'S COMPLIANCE WITH § 271 OF THE TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000B-97-0238

QWEST'S BRIEF REGARDING IMPASSE ISSUES RELATING TO SUBLOOP UNBUNDLING

Qwest Corporation ("Qwest") submits this brief regarding impasse issues relating to subloop unbundling. There are three primary subloop unbundling issues, with several subparts, that resulted in impasse. As demonstrated below, each of these issues should be resolved in Qwest's favor as a matter of fact and law.[1]

Qwest has made significant efforts to resolve disputes with participating competitive local exchange carriers ("CLECs") regarding these issues and has modified its SGAT to accommodate many of its competitors' requests. In several instances, Qwest has agreed to modifications that were unnecessary for compliance purposes, but which accommodated CLEC concerns or eliminated disputes. An important example of Qwest's willingness to resolve disputes is Qwest's offer to allow the CLECs to access subloops at all MTE Terminals without first requesting a Field Connection Point and cross-connect collocation.

[1] The parties agreed to incorporate into this proceeding the record relating to subloop unbundling issues that was developed in the Multistate workshops. Accordingly, this brief contains cites to the Multistate record.

Although disputes remain, the Commission should note that many of these issues relate to the CLECs' desire to impose new obligations on Qwest rather than on Qwest's compliance with its present obligations under Section 271 of the Act. Because Section 271 proceedings are not the proper forum for the creation of new requirements under the Act, the Commission should approve Qwest's SGAT "lite" subloop unbundling language, submitted March 21, 2001 ("SGAT").

INTRODUCTION

The FCC's *UNE Remand Order* requires ILECs to allow subloop access at any "accessible terminal" in Qwest's outside plant.[2] This requires Qwest to unbundle distribution subloops, feeder subloops in Feeder Distribution interfaces – the primary point at which feeder and distribution are connected to create the complete loop. Qwest is also required to unbundle subloops in accessible terminals in Multiple Tenant Environments (MTEs).

There is no dispute about how Qwest must unbundle subloops outside of MTEs – described in the SGAT as detached terminals (accessible terminals on their own concrete pads). In these circumstances, the CLEC provides Qwest with a request for "cross connect collocation;" Qwest has 90 days to provision such collocation; the cross-connect collocation includes a facility inventory and a cross-connect field dedicated to the CLEC; once the collocation is complete, the CLEC submits an LSR for each individual subloop order; and Qwest has five (5) days to run the jumper to provision the individual subloop.

The unanimity in the non-MTE environment is contrasted with substantial disagreement as to how Qwest must provision subloops in an MTE environment. AT&T and Qwest have several points of disagreement, each of which is described below. Nonetheless, Qwest has made

substantial concessions regarding subloop access in MTEs. For example, in the collocation workshops, AT&T demanded and Qwest conceded that it must be willing to provide collocation in any Qwest premises, no matter how small (space permitting). In the subloop context, however, AT&T claimed it had the unfettered right to access MTE terminals without collocation. Similarly, Qwest originally demanded that a cross-connect field dedicated to the CLEC be created to ensure there was no confusion about ownership of facilities when a technician accessed the terminal. As described above, both of these demands were uncontested outside of the MTE context. Not true with MTEs. Qwest conceded both of these substantial points. These concessions moved the parties substantially closer together; nonetheless several impasse issues remain. As set forth below, each of these issues should be decided in Qwest's favor as a matter of fact and law.

A. Whether the SGAT's provisions for access to subloop elements at MTE terminals is consistent with the Act and the rules thereunder.

1. Whether the SGAT's provisions for access to subloop elements at MTE terminals is consistent with the FCC's definition of, and rules regarding access to, the unbundled NID.

Qwest and AT&T have reached impasse regarding whether the SGAT section on subloop access is consistent with the FCC's definition of the unbundled network interface device ("NID"). Qwest is confused about this issue, as it appears to be an unnecessary hold-over from the time when Qwest demanded collocation in MTE terminals. The SGAT allows CLECs to access NIDs (demarcation points) and MTE terminals (when subloop is sought) in exactly the same way. Despite this, AT&T contends that any accessible terminal containing a protector in an MTE is a

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[2] Third Report and Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238, 15 FCC Rcd 3696 (rel. Nov. 5, 1999) ("*UNE Remand Order*"), ¶ 206.

NID and subject to the FCC's rules on access to the unbundled NID. As a matter of law, AT&T is incorrect.

Before discussing the merits of the argument, Qwest would like to make a practical point. This is simply a terminology issue, nothing more. There is no difference in what CLECs will obtain. The only issue is what do we call these terminals when they are demarcation points and what do we call these terminals when they are not. Qwest asserts that the terminals should have different names to leave absolutely no confusion about whether a subloop is involved or not. When an MTE Terminal is involved, subloop is necessarily there. When a NID is ordered, it is necessarily the demarcation point. At the end of day, it is not going to be lawyers implementing the terms of the contract language. Instead it will be engineers and technicians. We do not need to add a level of confusion to implementation of the contract.

Rule 319 (a)(2)(D) provides that "[a]ccess to the subloop is subject to the Commission's collocation rules." In order to avoid the application of the collocation rules, AT&T claims that the accessible terminals it seeks to access in conjunction with subloop elements constitute unbundled NIDs, and therefore are not subject to the collocation rules. This contention has no merit as a matter of law.

In the UNE Remand Order, the FCC required unbundling of subloops[3] and of the NID.[4] The FCC defined the NID unbundled network element in the *UNE Remand Order*. Specifically, the FCC defined "the NID to include any means of interconnection of *customer premises wiring to the incumbent LEC's distribution plant*, such as a cross-connect devise used for that purpose."[5] The FCC acknowledged that it was establishing a particular definition for the NID unbundled

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[3] *UNE Remand Order* ¶ 202-229.

[4] *UNE Remand Order* ¶ 230-240.

network element: "[T]he NID definition, *for purposes of our unbundling analysis*, should be flexible and technology-neutral."[6] The FCC then reiterated that this discrete UNE NID definition includes any variation in "the hardware interfaces *between carrier and customer premises facilities,*" i.e., the demarcation point.[7] Thus, the FCC plainly defined the unbundled NID, regardless of the technology the NID employs, as the demarcation point at which the customer premises facilities begin.

In defining the UNE NID, the FCC expressly "declined to adopt parties' proposals to include the NID in the definition of the loop."[8] Instead, FCC carefully distinguished the unbundled NID demarcation point from the *functionality* of the NID. Because competitors "acquire the *functionality* of the NID for the subloop portion they purchase," the FCC determined that there is "no need to . . . include the NID as part of any other subloop element."[9] Thus, the FCC created a distinction between the unbundled NID, which is defined as the demarcation point, and the functionality of the NID, which is included in the subloop elements CLECs purchase.

Moreover, the FCC specifically stated that its collocation rules apply to all accessible terminals on the loop: "[W]e intend to make collocation available at all accessible terminals."[10]

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[5] *UNE Remand Order* ¶ 233 (emphasis added).

[6] *UNE Remand Order* ¶ 234 (emphasis added).

[7] *Id.*

[8] *UNE Remand Order* ¶ 235.

[9] *UNE Remand Order* ¶ 235.

[10] *UNE Remand Order* ¶ 221.

The reason for making collocation available is to establish the "methods and standards of obtaining interconnection."[11]

In describing the accessible terminals at which subloop elements can be accessed, the FCC explicitly contemplated that collocation would apply: "Accessible terminals contain cables and their respective wire pairs that terminate on screw posts. This allows technicians to affix cross connects between binding posts of terminals *collocated* at the same point."[12]

The crux of the disagreement between AT&T and Qwest turns on the FCC's description of these two UNEs – subloop and NID. Essentially, AT&T claims that any accessible terminal that includes the cross-connect and electrical overvoltage protections that a NID performs constitutes a NID to which Qwest must provide unbundled access pursuant to Rule 319(b). This contention ignores the FCC's plain distinction between the functionality of the NID, which the FCC expressly held is included as part of a subloop, and the unbundled network element NID, which the FCC clearly defined as the demarcation point between "end-user customer premises wiring [and] the incumbent LEC's distribution plant."[13]

AT&T ignores this distinction. AT&T claims that the NID is any accessible terminal that contains an overvoltage protector and cross-connects.[14] This claim clearly focuses on the functionality of the NID. As set forth above, the FCC specifically determined that the functionality of the NID is part of the subloop element, but that functionality does not satisfy the definition of the unbundled NID.

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[11] *UNE Remand Order* ¶ 221.

[12] *UNE Remand Order* ¶ 206 n.395 (emphasis added).

[13] *UNE Remand Order* ¶ 233.

[14] Multistate Workshop II 2/20/01 Tr. 190:15-24.

Thus, pursuant to the *UNE Remand Order*, the terminals to which AT&T repeatedly referred in the workshop as "NIDs" are simply accessible terminals through which CLECs access subloop elements. Pursuant to Rule 319(a)(2)(D), these terminals constitute "[a]ccess to the subloop [and] is subject to the Commission's collocation rules." As a matter of law, CLECs must be required to comply with the collocation rules when they access subloop elements at accessible terminals.

2. Whether CLECs must submit LSRs to order subloops.

Submission of an LSR is the industry standard for wholesale orders.[15] The Ordering and Billing Forum ("OBF") is the national industry forum that creates and maintains LSR ordering guidelines.[16] These guidelines are the de facto standard for ordering.[17] The OBF has considered how subloop unbundling should be ordered and is nearing closure on its draft solution.[18] The process the OBF has defined for ordering subloops is based on submission of an LSR for all subloop elements, including feeder, distribution, and specifically including intrabuilding cable.[19] Whenever a CLEC is interconnecting with Qwest's network, the LSR requires the CLEC to provide CFA information to identify the tie-down information that identifies the interconnection point.[20] The CFA or equivalent information is standard information that is widely used in the

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[15] *See* Arizona Tr. Vol. V 1183:13-24.

[16] Multistate Workshop II 2/28/01 Tr. 153:15-154:9.

[17] Multistate Workshop II 2/28/01 Tr. 154:1-3.

[18] Multistate Workshop II 2/28/01 Tr. 154:9-21.

[19] Multistate Workshop II 2/28/01 Tr. 154:22-155:6.

[20] Multistate Workshop II 2/28/01 Tr. 167:1-13.

industry.[21] Qwest's LSR form for subloop orders requires substantially the same information that CLECs currently provide on LSRs to order unbundled loops.[22]

AT&T claims that it should not be required to order subloop elements other than distribution and feeder by submitting a local service request ("LSR") to Qwest.[23] This contention is wholly unreasonable and without merit.

The industry standard requires submission of an LSR for ordering for good reason. The LSR contains information regarding the interconnection point between the CLEC network and the Qwest network.[24] It also allows the CLEC customer care representative who creates the LSR to validate that interconnection point information against Qwest's systems to ensure that it is valid and will be accepted.[25] The LSR contains information Qwest requires for billing, tracking inventory, and identifying the circuit for maintenance and repair purposes.[26] Timely submission of the LSR is required so that Qwest can satisfy its obligations to manage and maintain its network and to bill and recover the payment to which it is entitled for the element.[27] More importantly, both CLEC and Qwest customers will be adversely affected by the lack of a timely LSR due to the resultant inaccuracies in Qwest's systems, which will impede Qwest's repair

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[21] Multistate Workshop II 2/28/01 Tr. 166:23-167:5; 168:12-23.

[22] Multistate Workshop II 2/28/01 Tr. 179:18-180:2.

[23] Multistate Workshop II 2/28/01 Tr. 187:12-25.

[24] Multistate Workshop II 2/28/01 Tr. 166:17-167:16.

[25] Multistate Workshop II 2/28/01 Tr. 166:17-167:16.

[26] Arizona Tr. Vol. V 1173:17-22; Multistate Workshop II 2/28/01 Tr. 169:16-170:23.

[27] Multistate Workshop II 2/28/01 Tr. 171:6-14.

efforts. It is noteworthy that, in a letter to Qwest, AT&T has proposed at least some form of notice 24 hours prior to the use of a subloop.[28]

AT&T's sole basis for refusing to submit an LSR to order subloops is the cost it claims is associated with submitting an LSR.[29] Instead, AT&T believes it would be more efficient to send minimal information to Qwest as infrequently as every six months in some instances.[30]

AT&T's demand is wholly unreasonable in several respects. First, the absence of an LSR would dramatically increase Qwest's costs. Without LSR information, Qwest would have to build manual processes into its billing flow in order to ensure accurate billing out of the usual monthly flow.[31] In addition, AT&T's position would probably require that Qwest manually create and track the quarterly or semi-annual AT&T payment notices in a spreadsheet, rather that through Qwest's existing automated billing systems.[32] AT&T's alternative suggestion that Qwest and AT&T work together to develop a special process[33] is equally unappealing. Such an effort would require Qwest to either restructure subloop processes for all of its subloop customers or develop a costly customer-specific interface.[34] In either case, it would be reinventing a process that has already been developed and established as the industry standard.[35] As the Facilitator

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[28] *See* Letter from Weigler to Anderl, dated April 10, 2001 (submitted in Colorado as Exhibit 3 Qwest 30). This letter is attached hereto as Exhibit 1.

[29] Multistate Workshop II 2/28/01 Tr. 149:2-12.

[30] Arizona Tr. Vol. V 1197:21-25; Multistate Workshop II 2/28/01 Tr. 148:8-13; 150:4-13.

[31] Multistate Workshop II 2/28/01 Tr. 173:2-7

[32] Multistate Workshop II 2/28/01 Tr. 174:4-10.

[33] Multistate Workshop II 2/28/01 Tr. 174:11-18.

[34] *See* Multistate Workshop II 2/28/01 Tr. 174:24-175:6.

[35] Multistate Workshop II 2/28/01 Tr. 174:24-175:6.

acknowledged at the Multistate workshop, "There's a lot of beauty to the LSR when it comes to billing."[36]

Further, the absence of an LSR will impede Qwest's ability to service its own retail customers. If a customer subscribes to AT&T's service, then decides to return to Qwest, Qwest will have difficulty providing service because it will not know that AT&T has taken the subloop.[37] When that customer called Qwest to order service, Qwest may have committed to a shorter installation interval and be unable to meet it because it was not aware that a portion of the subloop had been taken by AT&T.[38] Qwest would be similarly unable to turn up service if an AT&T customer moved out of an apartment and the new customer orders Qwest service.[39] If AT&T removed the wrong customer's jumper and replaced it with an AT&T jumper, Qwest would be unable to determine the proper placement of the wires.[40] Without knowledge regarding the activity that has taken place at the terminal, a Qwest technician is faced with either pulling AT&T's jumper off, believing that it should be serving a Qwest customer, or not turning up the Qwest service.[41] Neither option is acceptable because both result in the unnecessary disruption of a customer's service. If AT&T had notified Qwest of these activities by submitting an LSR, Qwest would be able to contact AT&T to resolve the situation much more quickly and efficiently.[42]

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[36] Multistate Workshop II 2/28/01 Tr. 204:5-6.

[37] Multistate Workshop II 2/28/01 Tr. 194:13-19.

[38] Multistate Workshop II 2/28/01 Tr. 194:20-25.

[39] Multistate Workshop II 2/28/01 Tr. 194:13-19.

[40] Multistate Workshop II 2/28/01 Tr. 195:6-12.

[41] Multistate Workshop II 2/28/01 Tr. 195:6-12.

[42] Multistate Workshop II 2/28/01 Tr. 195:22-196:10.

Moreover, AT&T admits that it will have to complete an LSR for over 90% of MTE orders because those orders will include local number portability, which must be ordered by LSR.[43] Thus, this dispute will touch only a minority of AT&T's orders. The substantial majority will require an LSR regardless of the outcome of this issue. If AT&T is not prejudiced by issuing LSRs in these instances, surely they will not be prejudiced in the circumstances without number portability.

Instead of the industry standard LSR process, AT&T offers virtually no process. AT&T proposes to provide Qwest with only the property address, number of lines in use, and date of first use.[44] And, even then, that information may be provided as many as six months after the fact if the location has fewer than 100 subloops (which according to AT&T will be a vast majority of the circumstances).[45] This procedure would leave Qwest at the mercy of AT&T to identify the number and specific location of subloops AT&T has taken.[46] As the facilitator noted at the workshop, this amounts nothing more than the honor system: "[W]hat I'm almost hearing is [AT&T] ought to just send [Qwest] a check . . . . [T]his is like, you know, the honor system. There's a little basket on the counter and you pay for as many as you take."[47] Indeed, AT&T's

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[43] Arizona Tr. Vol. VI 1305:19-1306:2. At the Multistate workshop, which was held after the workshop in this proceeding, AT&T changed its testimony to reduce this figure to more than 60% of MTE orders. Multistate Workshop II 2/28/01 Tr. 181:3-23. Nonetheless, it remains undisputed that AT&T already submits an LSR for the vast majority of orders because they include local number portability.

[44] Multistate Workshop II 2/28/01 Tr. 204:15-17.

[45] Arizona Tr. Vol. III 635:16-18 (AT&T is focused on smaller residential MTEs); Multistate Workshop II 2/28/01 Tr. 205:20-206:16.

[46] Multistate Workshop II 2/28/01 Tr. 205:15-19.

[47] Multistate Workshop II 2/28/01 Tr. 208:2-9.

proposal is so devoid of detail that, at the conclusion of a lengthy discussion at the workshop, the facilitator noted that "I really don't know how you're proposing to do it at all."[48]

AT&T has offered no good faith alternative to submitting LSRs to order subloops. LSRs are the industry norm and specifically endorsed by the OBF for subloops. LSRs ensure proper repair, billing and tracking of facilities improving the transition between carriers. Therefore, AT&T should be required to comply with the industry standard.

3. Whether an inventory of CLEC facilities must be created before CLECs may obtain access to subloop elements in an "MTE terminal".

Creating the inventory is an integral step in entering required information into Qwest's systems. The function of the inventory is to create a record in Qwest's systems of the CLEC's termination points for the purpose of submitting the LSR for the subloop element.[49] This information is entered into Qwest's systems so that the addressing information for the termination of the subloop can be identified and recognized when the CLEC issues an LSR to order a subloop.[50] Thus, the inventory is a necessary prerequisite to the CLEC's ability to submit an LSR. Because, as set forth above, CLECs must submit LSRs to order subloops, the inventory must be performed before the CLEC orders or installs any subloops. However, AT&T contends that Qwest should inventory CLEC facilities after, rather than before, the CLEC has completed its installation process.

AT&T's only argument here is one of timing. They claim they would be unfairly prejudiced by waiting for the inventory. Qwest has agreed to provide this inventory in five days.

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[48] Multistate Workshop II 2/28/01 Tr. 215:1-2. AT&T provided no evidence that it even had systems in place that could track the number of subloops obtained. The facilitator ordered AT&T to provide such information to Qwest, and none was ever offered.

[49] Arizona Tr. Vol. V 1169:21-1170:15; Multistate Workshop II 2/28/01 Tr. 112:18-22.

[50] Multistate Workshop II 2/28/01 Tr. 117:18-25.

Moreover, this inventory only applies to the first subloop order in a MTE.[51] Once the inventory is complete, all subsequent subloop orders are provisioned in traditional intervals. Further, a CLEC's business plan will be in place well before marketing actually begins. AT&T could notify Qwest in advance of the targeted MTEs so that the inventory can be completed before the CLEC even begins marketing, eliminating AT&T's concern. Accordingly, AT&T's argument should be rejected.

4. Whether Qwest must determine whether it owns the intrabuilding cable (or inside wire) before a CLEC may access subloop elements? If so, whether Qwest's processes for determining such ownership are appropriate.

Qwest's subloop proposal specifically provides Qwest with ten days from a request from a CLEC to determine whether Qwest or the landlord owns the facilities on the customer side of the MTE Terminal. AT&T objects to Qwest determining whether it owns MTE wiring prior to the CLEC accessing subloop elements again arguing it will make it impossible for AT&T to compete.

This process is necessary because it determines where Qwest's network -- and its maintenance and repair obligations -- ends and the customer premises facilities begin.[52] Without this determination, Qwest and the CLEC do not know if CLEC requires a subloop element from Qwest or cable owned by the landowner or both. Because AT&T stated no real objection to the need for the determination, but rather focused on the interval, this issue is dealt with in the next section regarding intervals. Indeed, in the Colorado follow-up workshop on emerging services

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[51] Arizona Tr. Vol. V 1187:24-1188:7.

[52] Multistate Workshop II 2/28/01 Tr. 127:22-128:18.

the week of April 16, 2001, AT&T proposed SGAT language requiring Qwest to perform the ownership inquiry.[53]

5. Assuming Qwest's processes (including Qwest's determination of ownership, inventory of terminations, FCP and collocation processes) are appropriate, whether the intervals provided by Qwest for such processes are appropriate?

Qwest has proposed standard intervals to address the amount of time Qwest has to perform the up front work required to gather the appropriate information and enter it into Qwest's systems, to install a field connection point ("FCP") and provide cross-connect collocation. AT&T objects to Qwest's intervals for its subloop processes, claiming that they are too lengthy and costly.[54]

Qwest's ten calendar day interval for determining ownership of MTE wiring is reasonable as a matter of law. In the *MTE Order*, the FCC held that the ILEC has up to ten business days to determine ownership of the intrabuilding cable.[55] Qwest committed to ten calendar days – less than the amount of time it is entitled to by law. In addition, Qwest has repeatedly clarified that it would complete this step in less time if possible.[56] Thus, Qwest is entitled to this ten day period as a matter of law. It should also be noted that, in the Colorado follow-up workshop on

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[53] AT&T proposed SGAT, filed April 19, 2001 in the Colorado workshop as Exhibit 3 ATT 4, section 9.3.8.2 ("Qwest shall reply to such MTE Ownership Request within (a) ten (10) days, if CLEC's request is the first request for access at such MTE "). This document is attached hereto as Exhibit 2.

[54] Multistate Workshop II 2/28/01 Tr. 102:10-12.

[55] First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, *In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets, Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed to Provide Fixed Wireless Services, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network*, CC Docket No. 96-98 & 88-57, FCC 00-366 (Rel. October 25, 2000) ("*MTE Order*") ¶ 56.

emerging services the week of April 16, 2001, AT&T proposed language giving Qwest ten days to perform the ownership inquiry.[57]

Once ownership is determined, the interval for inventorying the CLEC's terminal begins. Qwest reduced its proposal for the inventory interval from ten to five calendar days, running from the end of the interval for determining ownership.[58] During this five day period, Qwest accomplishes the vital steps discussed above to get the addressing information for the CLEC's terminations entered into Qwest's systems so that the CLEC can issue an LSR. Five days is a reasonable period to allow for Qwest to accomplish this important task so that CLECs can order subloops by LSR and avoid the problems, more fully discussed above, that would result from any ordering process that does not involve submitting an LSR. AT&T did not disagree. Instead it argued that an inventory was not necessary at all because CLECs should not be forced to submit LSRs. This argument falls flat for all of the reasons set forth above; however, it also misses the mark because AT&T acknowledges it must submit LSRs in the vast majority of cases when number porting is required. This inventory contains information necessary for CLECs to complete the LSRs with number porting.

It is also important to remember that the ownership inquiry and the inventory are required only once. After the first subloop order in a MTE, these intervals do not apply. For those subsequent orders, the interval is either zero days (for intrabuilding cable) or five days (for distribution subloop). The initial infrastructure intervals, which total 15 days, are reasonable not only in light of the work involved, but also in light of the fact that AT&T will know well in

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[56] *E.g.*, Multistate Workshop II 2/28/01 Tr. 107:3-20; Multistate Workshop II 3/01/01 Tr. 36:22-37:2.

[57] AT&T proposed SGAT, filed April 19, 2001 in the Colorado workshop, section 9.3.8.2 ("Qwest shall reply to such MTE Ownership Request within (a) ten (10) days, if CLEC's request is the first request for access at such MTE ").

advance of the first order in the MTE that it will be going to the MTE. Indeed, AT&T itself must perform work in the MTE before getting customers, such as putting its own terminal in the MTE and running conduit to the Qwest MTE Terminal.[59] Thus, the one-time infrastructure work taking up to 15 days should not have any negative effects on AT&T's marketing plans.

AT&T also objects to Qwest's intervals for installing an FCP and for cross-connect collocation, where required. Qwest only requires an FCP for CLECs to access a detached terminal. At the workshop, Qwest offered to eliminate the SGAT provision requiring an FCP for closed terminals in order to simply access to those terminals.[60] In the SGAT filed March 20, 2001, Qwest clarified that an FCP is required for access in detached terminals,[61] but is not required for access in MTE Terminals.[62] When an FCP is required, the CLEC accesses the subloop by collocation of equipment or by simplified cross-connect collocation in the terminal.[63] The FCP and cross-connect installation interval is 90 days. AT&T did not focus specific criticism on this interval, so Qwest is unable to do more than provide in a general way the basis for this interval. First, the FCC's rule on subloop expressly indicates that collocation applies to subloop access.[64] Second, the FCC adopted a standard 90 day collocation interval for all forms of

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[58] Multistate Workshop II 3/01/01 Tr. 36:7-37:14.

[59] Testimony of Daniel C. Keating, III on Behalf of AT&T Communications of the Pacific Northwest, Inc., dated March 19, 2001, at 4:20-5:5 ("Before AT&T markets to potential customers, it prepares the building by running a one inch weather proof conduit from its cross connect box to the Qwest MPOE Terminal/NID"). A copy of this testimony is attached as Exhibit 3.

[60] Multistate Workshop II 03/01/01 Tr. 60:22-61:10.

[61] Section 9.3.1.3.1, SGAT filed March 20, 2001.

[62] Section 9.3.1.3.2, SGAT filed March 20, 2001. "MTE Terminals" are "[a]ccessible terminals within a building in a MTE environment or accessible terminals physically attached to a building in a MTE environment.

[63] Multistate Workshop II 2/28/01 Tr. 103:21-104:18.

[64] Rule 319 (a)(2)(D) provides that "[a]ccess to the subloop is subject to the Commission's collocation rules."

collocation.[65] The 90 day interval was adopted without objection in the collocation workshops. There is simply no reason to utilize any different interval and AT&T has not attempted to put forth evidence explaining why a shorter interval is appropriate.

6. Whether CLEC is entitled to the option of having Qwest or CLEC run the jumpers necessary to access subloops in MTE terminals regardless of the type of subloop ordered or is section 9.3.5.4.5 the proper approach (for Intrabuilding Cable, CLEC runs the jumpers and, for other subloops, Qwest runs the jumpers)?

AT&T objects to Qwest's requirement that, if the subloop element the CLEC is accessing is a distribution element, then Qwest must run the jumper.[66] AT&T's objection fails as a matter of law.

By having CLECs run the jumpers in MTE Terminals when CLECs order intrabuilding cable, Qwest has gone well beyond its legal requirements as well as the subloop unbundling policies of other ILECs such as Bell Atlantic and SBC. Qwest's position is consistent with *GTE v. FCC*, 205 F.3d 416 (D.C. Cir. 2000). First, this decision emphasized that the FCC *Collocation Order* provided that a LEC "may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage."[67] Second, the court also stated:

> Even counsel for the Commission seemed unwilling to embrace an expansive view of paragraph 42: He suggested that LECs should be allowed to choose the collocation space; he also suggested that the LECs should be allowed to segregate collocation space from the rest of a LEC's property. . . .[68]

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[65] Order on Reconsideration and Second Further Notice of Proposed Rulemaking and Fifth Order Notice of Proposed Rulemaking, *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 98-147, FCC 00-297 (rel. Aug. 10, 2000) ("*Collocation Order*"), ¶27.

[66] Multistate Workshop II 2/28/01 Tr. 120:23-121:6.

[67] *GTE v. FCC*, 205 F.3d 416, 426 (D.C.Cir 2000).

[68] *Id.*

Thus, the FCC took the position that a LEC is allowed to take reasonable steps to protect its own equipment, up to and including segregating its equipment from CLEC equipment in a collocation space. Such segregation would allow the LEC to preclude a CLEC from being able to access LEC services and equipment. The only way Qwest can reasonably protect its equipment and prevent CLECs from accessing the cable pairs though which Qwest provides local exchange service, is to limit access for the purpose of running the jumpers to Qwest technicians. Both SBC and Verizon have obtained 271 approval with a policy of running jumpers in all circumstances.

Despite the absence of a legal obligation to do so, Qwest's SGAT has CLECs performing jumper work in MTE Terminals.[69] CLECs run their own jumpers in MTE Terminals for access to intrabuilding cable subloops, which is where most of the demand for MTE subloops is. However, Qwest's systems do not allow for CLECs to run the jumpers in MTE Terminals for distribution subloops. While the Qwest systems do recognize the difference between intrabuilding cable subloops and distribution subloops, which is why Qwest can allow CLECs to run jumpers for intrabuilding cable subloops,[70] those systems do not recognize terminals as MTE Terminals or Detached Terminals. However, there is no way for Qwest to know not to roll a truck for distribution subloop order involving a MTE Terminal. AT&T, however, demands that Qwest allow CLECs to run jumpers in that circumstance. As noted above, Qwest has no legal duty to allow CLECs to run these jumpers. Further, Qwest's generosity with regard to intrabuilding cable should not be used as a sword against Qwest with regard to distribution subloop.

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[69] SGAT Section 9.3.5.4.5. ("If CLEC ordered intrabuilding Cable Loop, CLEC shall dispatch a technician to run a jumper between its Subloop elements and Qwest's Subloop elements").

Moreover, it is simply not possible for Qwest to run the jumpers on an order for intrabuilding cable because the terminal in that situation will not have CLEC terminations on a cross connect field. Consequently, Qwest technicians will not have any idea where to connect the subloop. This is not the case where distribution subloop is ordered at an MTE terminal because the terminals that serve distribution subloop will have the CLEC terminations on a cross connect field so that the Qwest technicians will be able to figure out where to connect the subloop.

B. Whether Qwest's SGAT provides access to all appropriate subloop elements to be offered by Qwest?

1. Whether Qwest must provide access to copper feeder and fiber subloops?

a. Copper feeder.

Qwest has agreed to provide CLECs access to the subloop feeder facilities that run from the MDF or COSMIC in the central office to the FDI.[71] Qwest will not, however, develop a standard copper-based feeder subloop offering because of a lack of reasonably foreseeable demand.

If a CLEC requests access to a copper feeder subloop, and such a subloop existed at the location the CLEC desired, Qwest will unbundle that copper feeder and make it available.[72] A CLEC in that situation would use Qwest's special request process and the subloop would be priced on an individual case basis.[73]

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[70] Arizona Tr. Vol. III 600:5-13.

[71] Rebuttal Testimony of Karen A Stewart, dated January 5, 2001, at 15:10-13; Multistate Workshop II 3/01/01 Tr. 15:2-6.

[72] Arizona Tr. Vol. V 1091:9-14; Multistate Workshop II 3/01/01 Tr. 15:2-6.

[73] Multistate Workshop II 3/01/01 Tr. 15:20-22. SGAT Section 9.3.1.7 ("Qwest shall provide access to additional Subloop elements to CLEC where facilities are available pursuant to the SRP in Exhibit F").

AT&T continues to berate Qwest for its "productization" of subloop elements.[74] However, the reality is that, in order to meet CLEC expectations regarding standard processes and procedures, as well as installation intervals and rates, then Qwest must create a "product" as a way to communicate internally and externally about how to order and provision the requested service. Qwest is not willing to divert critical internal resources to developing a subloop option that is unlikely to ever be ordered.

There is no evidence of demand for a "copper feeder" subloop.[75] The FCC requires that ILECs must provide access to checklist items to meet "reasonably foreseeable demand."[76] There is no evidence in the record that there is any such demand. AT&T has offered only anecdotal assertions,[77] and hypothetical situations where AT&T might want access to copper feeder.[78] Indeed, AT&T admitted in the Multistate workshop that it had no forecast for such an offering.[79] In the Colorado proceeding, Qwest propounded a discovery request on AT&T regarding its intended demand for this type of subloop. AT&T admitted it had no proof of any such demand. Contact Communications also admitted that it did not have a forecast, but may have an interest in copper feeder to access remote collocations.[80] Contact Communications then admitted that it does not even have a complete business plan for such a product and speculated that it may have

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[74] AT&T's Comments for the Multistate Workshop II at 21; Multistate Workshop II 3/01/01 Tr. 17:23-18:01.

[75] Multistate Workshop II 3/01/01 Tr. 15:12-20.

[76] Memorandum Opinion and Order, *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, Inter-LATA Services in Louisiana*, CC Docket No. 98-121, FCC 97-418 (1998) (*"Second BellSouth Louisiana Order"*) ¶ 181.

[77] Multistate Workshop II 3/01/01 Tr. 20:16-21:10.

[78] Arizona Tr. Vol. V 1082:11-1083:5 (AT&T claims that it "may have . . . in the future" a "potential need" for copper feeder); Multistate Workshop II 3/01/01 Tr. 22:4-20.

[79] Multistate Workshop II 3/01/01 Tr. 24:25-26:1.

some demand over the next few years.[81] In fact, Qwest has never received any request for copper feeder in Arizona. Thus, the record contains no evidence of any demand for a copper feeder subloop.

Despite the absence of any evidence of demand for a copper feeder subloop, in the Colorado workshops, Qwest offered to modify SGAT Section 9.3.1.7 to include a specific reference to copper feeder as an example of the additional subloop elements that CLECs can request through the special request process, as follows:

> 9.3.1.7. Qwest shall provide access to additional Subloop elements, e.g. copper feeder, to CLEC where facilities are available pursuant to the Special Request Process in Exhibit F.

On the basis of this compromise, this impasse issue was closed in Colorado. In order to reach closure on this issue in this proceeding, Qwest offers to bring this language into the Arizona SGAT.

b. Fiber subloops.

Qwest believes that this issue was closed at the Multistate workshop. Qwest offers CLECs access to dark fiber at accessible terminals in Section 9.7 of the SGAT, which addresses unbundled dark fiber loops.[82] AT&T expressly agreed that those provisions are adequate.[83]

Qwest also offers access to high capacity loops at accessible terminals. At the Multistate workshop, Qwest offered to insert the following language in SGAT Section 9.2.2.3.1:

> Qwest shall allow CLECs to access high capacity loops at accessible terminals, including DSX FDPs or equivalent in the central office, customer premises or at Qwest owned outside plant structure, (e.g. CEV, RT or hut).[84]

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[80] Multistate Workshop II 3/01/01 Tr. 25:18-23.

[81] Multistate Workshop II 3/01/01 Tr. 26:6-11.

[82] Multistate Workshop II 03/01/01 Tr. 7:5-16.

[83] Multistate Workshop II 03/01/01 Tr. 10:23-11:5 (AT&T is "okay with that").

AT&T again agreed that this language adequately allows CLECs the access to fiber subloops, and, because high capacity loops will be addressed in a future workshop, the parties agreed to address the other related terms at that workshop.[85] In order to close this issue in Arizona, Qwest offers to insert the same language in the Arizona SGAT.

The only issue that the parties acknowledged to be at impasse is pricing for fiber subloops. Noting that the pricing issue was "the only issue that remains here,"[86] AT&T acknowledged that the issue would be addressed in a cost docket.[87] Thus, the record is clear that AT&T agreed that the only impasse issue relating to fiber subloops was not appropriately addressed in this proceeding.

2. Whether the rate for loop facilities on a campus, including cabling between buildings should be the same as distribution subloop or priced as a separate subloop element?

Qwest's current cost studies have averaged the distribution facilities that serve typical residences with the shorter distribution that can occur in an MTE.[88] This is the way both the Qwest and AT&T cost models calculate distribution. If the distribution element were to be deaveraged into two elements – residential distribution and MTE distribution -- the result will be that the rate for the distribution portion of the loop going to typical residences will increase while the rate for the distribution subloop on MTEs would drop. This would raise serious policy

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[84] Multistate Workshop II 03/01/01 Tr. 9:9-23.

[85] Multistate Workshop II 03/01/01 Tr. 11:5-13 (AT&T agrees "that takes care of the access issue").

[86] Multistate Workshop II 03/01/01 Tr. 11:25-12:6.

[87] Multistate Workshop II 03/01/01 Tr. 31:8-21.

[88] Multistate Workshop II 2/27/01 Tr. 140:16-24.

issues.[89] In other words, this deaveraging (which is not echoed in retail rates) would artificially divert resources away from competition for customers in single tenant buildings and toward competition in MTEs. Although supporting competition in MTEs is laudable, it is not without costs in the form of lessening the likelihood of competition in single tenant situations. The delicate balancing of these interests must be done carefully by the Commission in a cost docket. Moreover, since retail rates would not be similarly super-deaveraged, it would create perverse economic incentives and cause an inordinate amount of competitive resources to be diverted to MTEs from single tenant environments. Qwest recommends that this issue be deferred to cost dockets in the states where appropriate costing data will be available to the Commission to make a reasoned judgment about whether to create these artificial pricing distinctions and what, if anything, to do about retail rates at the same time.

3. Whether it is necessary or appropriate for Qwest to require a separate process (SRP- see Exhibit F of the SGAT) for requesting additional subloop elements? Said in the alternative, must Qwest develop a standard subloop offering for every conceivable subloop type even if demand for the product is virtually nonexistent?

AT&T objects to Qwest's SRP for requesting additional subloop offerings. As noted above, however, Qwest is required to meet "reasonably foreseeable demand" for access to checklist items.[90] Thus, when there is little or no demand, Qwest has no obligation to provide a streamlined and standardized product. In such cases, however, Qwest's SRP process allows any CLEC to request that Qwest provide access to subloop offerings that have not been made into

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[89] Multistate Workshop II 2/27/01 Tr. 140:25-141:8.

[90] *Second BellSouth Louisiana Order* ¶ 181.

actual products.[91] Thus, Qwest has a process in place to ensure that it will meet demand for any additional subloop offerings, if such demand should arise.

C. Whether Qwest provides adequate access to MTE Agreements?

This issue, identified as subloop issue 14 at the workshop, concerns the confidentiality of agreements that Qwest has with owners of MTEs. Qwest provided its written Response Regarding Subloop Issue 14 by separate submission on March 5, 2001, which Qwest believes closes this issue.

This issue has two parts: First, whether Qwest will waive the rights it has to confidentiality of agreements it has with MTE owners (MTE Agreements) with the exception of dollar amounts.[92] Second, if the first answer is affirmative, whether Qwest will amend the Consent to Disclosure form attached to the SGAT to disclose such a limited waiver.

In its written submission, Qwest answered both parts of this issue in the affirmative. Qwest agreed to a limited waiver[93] of confidentiality to permit disclosure of MTE Agreements to CLECs for the legitimate purposes of access to subloops and access to ducts, conduits, and ROW without the dollar amounts and without disclosure to their marketing, sales or product management staffs. In addition, Qwest attached a new SGAT section 10.8.2.27 that describes the process for disclosing MTE Agreements, along with a new Exhibit G, Consent to Disclosure

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[91] Multistate Workshop II 3/01/01 Tr. 30:1-17; SGAT Section 9.3.1.7 ("Qwest shall provide access to additional Subloop elements to CLEC where facilities are available pursuant to the Special Request Process in Exhibit F").

[92] In other states, Qwest and CLECs have reached consensus that dollar amounts should be redacted.

[93] Consistent with the narrow legitimate uses of MTE Agreements and with Qwest's rights to their confidentiality, Qwest insists that CLEC not disclose MTE Agreements to CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC, and Qwest continues to require the redaction of

form, to the SGAT. Because Qwest has agreed to implement both aspects of this issue, the issue should be closed by consensus.

CONCLUSION

For the reasons stated above, Qwest should prevail on all impasse issues regarding subloop unbundling. In addition, Qwest should be found to be in compliance with section 271 on this checklist item.

DATED this 21st day of May, 2001.

Qwest Corporation

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dollar amounts. In other words, CLECs have no legitimate need to know the dollar amounts in MTE Agreements or to disclose them to marketing or sales or product personnel.

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COVER PAGE FOR EXHIBIT 1

Anderl Letter

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April 10, 2001

Lisa Anderl
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Re: **AT&T Communications of the Pacific Northwest, Inc. v. Qwest Corporation, Docket No. UT-003120**

Dear Lisa:

As you know, the Commission has ordered that Qwest must promptly provide access to on-premises wiring in any technically feasible manner requested by AT&T. Accordingly, as we discussed, Qwest will be removing all locks that Qwest had placed on the building terminals/NIDs immediately.

Also as we discussed, on March 29, 2001, Dan Waggoner of Davis Wright provided a technically feasible process that is substantially similar to a proposal you suggested in settlement negotiations. This process also took into consideration concerns that your colleagues had expressed in various 271 proceedings. AT&T will be utilizing the process articulated by Mr. Waggoner to access on-premises wiring. So there is no confusion, the process, modified to comply with the Commission's Order, is as follows:

1) AT&T will provision and install both the bridge strap and a DC continuity interrupter to access on premises wiring. AT&T also agrees to negotiate alternative methods of access when what you consider a "building terminal" and AT&T considers the NID (hereinafter "building terminal/NID") will not accommodate a bridge strap.

2) AT&T will tag their loops in the building terminal/NID with an AT&T identifier. Qwest will not tamper with any such tagged wiring unless required to meet a pending Qwest service request for the retail unit served by the AT&T wiring.

3) AT&T will provide necessary information (including the building location [by street address and, if available, name] and mode of access) at least 48 hours before accessing the building terminal/NID for grooming, provided that the building owner has not informed AT&T that on-premises wiring is not owned or

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controlled by that building owner. Grooming includes preparing the building for access by placing conduit between the AT&T cross-connect to the Qwest building terminal/NID. The carrier winning the retail customer, where the retail customer wishes to retain the telephone number, will issue an LSR to the losing customer to port the number. When the number does not need to be ported, AT&T will then provide reasonable information including the unit address of tenant, 24 hours in advance of accessing the terminal to make the connection. AT&T reserves the right should it become feasible for the technician to work multiple orders in a single site visit, to work all such orders, provided that Qwest has been given appropriate notice that the work will be conducted for at least one customer at the premises. In this case, AT&T will provide notice of the additional orders within 2 business days after making such multiple connections. AT&T will provide any such notice as per any reasonable method requested by Qwest including e-mail or telephonically to any agent that Qwest designates.

4) AT&T will use proper technical protocol to access the on-premises customer premises wiring.

5) As long as AT&T utilizes the proper technical protocol, Qwest will not impede or limit AT&T's access to on-premises wiring in any way.

6) AT&T will not obstruct Qwest's inventorying on-premises wiring and/or methods for determination of ownership of on-premises wiring to the extent that such methods do not delay AT&T's access to the building terminal/NID utilizing methods described above. If Qwest undertakes such an inventory, then Qwest will permanently mark the terminal block, cable pairs and terminating cables on the customer side of the terminal block so that all parties may employ the information to manage assignments.

7) AT&T will make payments to Qwest that will be subject to true up upon establishment of permanent pricing, utilizing the process mandated by the Commission. Qwest, in turn, will not bar AT&T from using on-premises wiring due to issues of compensation for use. Qwest will hold AT&T harmless when, based on Qwest's representations, AT&T makes payments to Qwest that the building owner subsequently claims should have been made to the building owner.

8) All terms listed above must be reciprocal (e.g. when AT&T has provisioned the building terminal/NID and/or has ownership control or on-premises wiring).

As displayed in the process above, AT&T will be accessing the on-premises wiring though the building terminal/NID to provide telecommunications services to tenants residing in multi-tenant environments. Because the above-listed process informs Qwest of both the quantity and location of the wiring it is accessing, and Qwest has the

opportunity at any time to commence an inventory, there should be no issue as to which on-premises wiring AT&T has accessed for accountability purposes.

As required in the Commission's April 5, 2001 Order, the parties are to undertake a bona fide request ("BFR") to negotiate arrangements by which Qwest will be compensated for the above stated access to on-premises wiring. You should consider this letter AT&T's formal request to commence a BFR process for establishment of pricing for subloop access. The BFR process as set forth in the AT&T-U S WEST Interconnection Agreement for the State of Washington specifies that, after a request is made, an interval for the preparation of a "preliminary analysis" commences. In accordance with that order, AT&T proposes the following:

> If Qwest can establish that it owns or controls the on-premises wiring (a.k.a. "Option 3" wiring), when AT&T requests access, AT&T proposes to pay Qwest a $.25999 recurring monthly charge per pair per month.[1] Payment will be made monthly utilizing standard commercial practices such as a check mailed to any reasonable address provided by Qwest.

I look forward to working with you to implementing this payment methodology to resolve the extremely limited issue articulated in the Commission's April 5, 2001 order.

Sincerely,

Steven H. Weigler

[1] This amount is consistent with cost studies that AT&T has undertaken utilizing HAI 5.0A and employing the FCC input for indoor SAI investment.

9.3 Sub-loop Unbundling

9.3.1 Description

9.3.1.1 An unbundled Sub-loop network element is defined as any portion of the Loop for which access is technically feasible. Access is presumed technically feasible at (i) any point on the Loop facility where technicians can access the wire or fiber within the cable without removing a splice case to reach the conductor within case, e.g., a pole, pedestal, Feeder Distribution Interface (FDI), Serving Area Interface (SAI) or Minimum Point Of Entry (MPOE), (ii) at any point that this commission, the FCC or a commission in another state has found technically feasible, or at any point otherwise determined to be feasible or designated as an "accessible terminal" pursuant to Existing Rules, or (iii) any device on the Loop facility that can reasonably accommodate cross-connection or splicing of pairs.

9.3.1.2 Standard Sub-loops available.

(a) Unbundled Distribution Sub-loop

(1) Two-Wire/Four Wire Unbundled Distribution Sub-loop

(2) Fiber Distribution Sub-loop

(3) DS1 Capable Unbundled Distribution Sub-loop

(b) Unbundled Feeder Sub-loop

(1) DS1 Capable Unbundled Feeder Sub-loop

(2) Continuous Copper Unbundled Feeder Sub-loop

(3) Fiber Unbundled Feeder Sub-loop

(c) On-premises Wiring

9.3.1.3 Any Sub-loop not identified in Section 9.3.1.2 shall be made available to CLEC by Qwest upon request of CLEC on the terms and conditions set forth in this Section 9.3.

9.3.1.4 A CLEC may, at its option, access or connect to any on-premises Sub-loop element at any technically feasible point, regardless

of whether a Sub-loop Single Point of Interconnection (or SSPOI) exists or is subsequently established at that premises, as provided in Section 9.3.8. Technically feasible points for access to On-premises Wiring include, but are not limited to, a pre-existing NID, regardless of location, building terminal, regardless of location, or any other cross-connection devices or terminals, regardless of location, provided only that the facilities terminating on at least one side of the device or terminals are owned or controlled by Qwest. Qwest will not, in any manner, restrict or delay CLEC access to such technically feasible points of interconnection and, at its option, the CLEC may either re-terminate the On-premise Wiring connecting to a customer (for which service has been ordered) to the CLEC's facility or request that Qwest do so on its behalf. Qwest's decision to deploy a SSPOI in no manner prevents or limits a requesting CLEC's option of using any other technically feasible connection point at that location

9.3.2 Distribution Loops

9.3.2.1 The Two-Wire/Four-Wire Unbundled Distribution Loop is a Qwest provided facility from an accessible terminal in Qwest's distribution plant, including but not limited to the Feeder Distribution Interface (FDI) located other than on the retail customer's/MTE premises to the demarcation point at the customer's premises. The Two-Wire/Four-Wire Unbundled Distribution Loop is suitable for, but not limited to, local exchange-type services.

9.3.2.1.1 A CLEC may request that the Two-Wire/Four-Wire Distribution Loop be free of load coils, excess bridge taps and loop back devices. Such sub-loops are referred to as conditioned sub-loops. When CLEC requests a conditioned Unbundled Distribution Loop and there are none available, Qwest will verify that the requesting CLEC wants Qwest to "condition" a Sub-loop, if technically feasible. When so directed by the CLEC, Qwest will "condition" the Sub-loop by removing load coils and excess bridge taps (i.e., "unload" the Loop) or any other device that may impair technically feasible transmission.

9.3.2.2 The Fiber Distribution Sub-loop is a Qwest provided fiber facility from an accessible terminal in the distribution plant of Qwest but not on the retail customer's/MTE premises to the demarcation point at the customer's premises. Such a facility will generally be provided unlit. However, at the request of the CLEC and to the extent technically feasible, Qwest will provide the necessary electronics to light the fiber.

9.3.2.3 DS1 Capable Unbundled Distribution Sub-loop is a digital transmission path that is provisioned from an accessible terminal in the distribution plant of Qwest but not on the retail customer's/MTE premises to the demarcation point at the customer's premises. The DS1 Capable Unbundled Distribution Loop transports bi-directional DS1 signals with a nominal transmission rate of 1.544 Megabit/second.

9.3.3 On-premises Wiring

9.3.3.1 On-premises Wiring is a Sub-loop element consisting of a Qwest owned or controlled on-premises wiring generally located between and including two technically feasible accessible terminals on a facility wholly located on a single premises, including, but not limited to, an office building, residential apartment building, office campus, or similar environments. One end of the facility will typically be the demarcation point where the control of the on-premises wiring changes from Qwest ownership or control to property owner ownership or control. On-premises Wiring may include, but is not limited to, junction and utility boxes, riser cable, horizontal distribution wiring within an apartment building, and inter-building facilities within a campus, a commercial park, or a garden apartment complex. This Sub-loop element is available only when Qwest owns or controls the on-premises wiring. The term "on-premises wiring" when used in this Agreement and not capitalized shall mean wiring not owned or controlled by Qwest and generally located between and including two technically feasible accessible terminals on a facility wholly located on a single premises.

9.3.3.2 When Qwest neither owns nor controls the on-premises wiring, the CLEC may access the on-premises wiring by cross-connecting to the terminals upon which the on-premises wiring terminates even if the terminals are within an enclosure where Qwest has installed terminal blocks for its own facilities. In such case, Qwest will not limit CLEC access nor will it oppose the CLEC re-terminating a cross-connection associated with a customer request for service by that CLEC, provided that the connections are made in a reasonable manner. When access to such terminals is accomplished through this Section, Qwest shall not charge CLEC for any unbundled network element.

9.3.3.3 Access or connections to on-premises wiring, regardless of whether Qwest is providing the on-premises wiring as On-premises Wiring, shall be made as provided in 9.3.8 whenever Qwest has

pre-existing cross-connections to the on-premises wiring at the cross-connection terminal used by the CLEC.

9.3.4 Feeder Loops

9.3.4.1 DS1 Capable Unbundled Feeder Loop is a digital transmission path that is provisioned from a Qwest Central Office Network Interface, which consists of a DSX-1 panel or equivalent, to the accessible terminal, generally the FDI, regardless of the location of the FDI. The DS1 Capable Unbundled Feeder Loop transports bi-directional DS1 signals with a nominal transmission rate of 1.544 Megabit/second.

9.3.4.2 The Copper Unbundled Feeder Loop is a transmission path that is a continuous, non-multiplexed copper facility provisioned from a Qwest Central Office Network Interface to the accessible terminal in the outside plant of Qwest, generally the FDI, regardless of the location of the FDI. To the extent conditioning of the Copper Unbundled Feeder Loop is desired by the CLEC, Qwest will accommodate the request in the same manner as set forth in Section 9.3.2.2.

9.3.4.3 Fiber Unbundled Feeder Sub-loop is a Qwest provided fiber facility from a Qwest Central Office Fiber Distribution Panel to the accessible terminal at the FDI or other accessible terminals, regardless of the location of the FDI. Such a facility will generally be provided unlit. However, at the request of the CLEC and to the extent technically feasible, Qwest will provide the necessary electronics to light the fiber.

9.3.5 Rate Elements

The rate elements specified in the following section are only applicable to the extent that the CLEC requests that Qwest perform the work encompassed by or the facilities covered by the charges.

9.3.5.1 Sub-loop Non-Recurring Charge - CLEC will be charged a non-recurring basic installation charge pursuant to Exhibit A for each Sub-loop ordered by CLEC.

9.3.5.2 Sub-loop Recurring Charge - CLEC will be charged a monthly recurring charge pursuant to Exhibit A for each Sub-loop ordered by CLEC.

9.3.5.3 Sub-loop Trouble Isolation Charge - CLEC will be charged a Trouble Isolation Charge pursuant to the Support Functions –

Maintenance and Repair Section when trouble is reported but not found on the Qwest facility

9.3.6 Ordering/Provisioning

9.3.6.1 Except as provided in Section 9.3.8, CLEC may order a Sub-loop element through Section 12, Access to Operational Support Systems. CLEC will supply the termination information provided on the LSR for Sub-loops when Qwest provides such information to CLEC.

9.3.6.2 Where appropriate and relevant to Qwest supporting the use of the unbundled element, CLEC shall identify Sub-loop elements by NC/NCI codes. No such information will be required by Qwest in the cases where the CLEC uses only the On-premises Wiring.

9.3.7 Terms and Conditions

9.3.7.1 The Parties recognize a mutual obligation to interconnect in a manner that maintains network integrity, reliability, and security.

9.3.7.2 When a CLEC requests connection at the Qwest FDI, the CLEC must identify the size and type of cable that will be terminated in the Qwest FDI location. Qwest will terminate the cable into the Qwest terminal at the FDI if termination capacity is available. If termination capacity is not available, Qwest will expand the FDI at the request of CLEC, and all reconfiguration costs specific to so accommodating the CLEC shall be charged to the CLEC. In this situation only, Qwest shall seek to obtain any necessary authorizations or rights of way required to expand the terminal. Qwest will also seek to resolve obstacles that Qwest may encounter from cities, counties, electric power companies, property owners and similar third parties. The time it takes for Qwest to obtain such authorizations or rights of way shall be excluded from the time Qwest is expected to provision access to a Sub-loop at the FDI. CLEC will be responsible for placing the cable from the Qwest FDI to its equipment. Qwest will perform all of the initial splicing connecting the FDI to the CLEC facilities.

9.3.7.3 CLEC may cancel a request for connection to a Sub-loop at any time prior to the completion of the request by submitting a written request by certified mail to the Qwest Account Manager or through the appropriate OSS order as specified in Section 12. CLEC shall be

responsible for payment of all costs incurred by Qwest except where the requested access is not delivered by the committed due date. If the due date is past and the CLEC cancels the order, the amount otherwise payable to Qwest shall be reduced by 5% for every business day past the due date that the access is delayed prior to the CLEC cancellation of the request.

9.3.7.4 Access to unbundled Sub-loop elements may be made as provided in Section 9.3.1. For specified elements, the access point is pre-defined as set forth in Sections 9.3.2 through 9.3.4, above.

9.3.7.5 To the extent that an existing device or terminal does not have adequate capacity to permit direct connection of the CLEC facility to the existing cross-connection terminals, the CLEC may opt to construct an adjacent structure and Qwest will facilitate interconnecting the existing Qwest structure and the structure deployed by the CLEC.

9.3.8 Multiple Tenant Environment (MTE) Access

9.3.8.1 When the CLEC's access of On-premises Wiring (or any other Sub-loop element consisting of facilities Qwest owns or controls located on private property at a residential or business Multiple Tenant Environment [MTE]) shall be ordered as provided in this Section 9.3.8.

9.3.8.2 CLEC may elect to ask the MTE owner whether it owns or controls on-premises wiring at an MTE. If the owner fails to claim or disclaims ownership or control of such on-premises wiring or if CLEC elects not to ask such MTE owner, CLEC shall request that Qwest make a determination of whether Qwest owns or controls the on-premises wiring (an "MTE Ownership Request"). CLEC shall make an MTE Ownership Request no later than ten (10) days before CLEC begins construction of facilities to provide local services at an MTE. Qwest shall reply to such MTE Ownership Request within (a) ten (10) days, if CLEC's request is the first request for access at such MTE or (b) one (1) day, if Qwest has previously confirmed ownership or control or if any other CLEC has accessed on-premises wiring at such customer premises. Qwest's investigation into its ownership and control of on-premises wiring and Qwest's reply to the MTE Ownership Request shall be at no cost to CLEC.

9.3.8.3 Within ten (10) days after Qwest notifies CLEC that it owns or controls On-premises Wiring, Qwest shall (a) identify all On-premises Wiring and related facilities by stenciling or otherwise clearly and permanently marking the terminal block, each cable on the customer's side of the terminal block, and each pair used to provide service and any

related facilities and (b) tag or otherwise clearly identify each cable pair currently used by Qwest to provide operating service to an end user customer at the MTE. Qwest's stenciling, marking and identification of On-premises Wiring and related facilities shall be at no cost to CLEC.

9.3.8.4 If Qwest shall fail to respond to an MTE Ownership Request, or fail to make a determination of ownership or control of on-premises wiring or fails to stencil, mark or tag On-premises Wiring as provided in Section 9.3.8.2 and 9.3.8.3 within twenty (20) days after CLEC submits an MTE Ownership Request, or if ownership or control of on-premises wiring is otherwise unclear or disputed, Qwest will not prevent or in any way delay the CLEC's use of the on-premises wiring to meet an end user customer request for service. If after CLEC has commenced use of the on premises wiring Qwest demonstrates to CLEC's reasonable satisfaction that the facility used by CLEC is On-premises Wiring, or such determination is made pursuant to Dispute Resolution, then CLEC will compensate Qwest for the use of such On-premises Wiring, according to rates set forth in this Agreement, on a retroactive basis from the date of the Qwest demonstrates compliance with 9.3.8.2 and 9.3.8.3.

9.3.8.5 A CLEC shall have the option to perform all work at or on any device or terminal necessary or desirable to access a Sub-loop at a customer premises or MTE, including but not limited to lifting and re-terminating of cross-connection or cross-connecting new terminations. No supervision or oversight of any kind by Qwest personnel shall be required but Qwest may, at its own cost and expense, observe the CLEC's work provided that such observation does not delay or impede CLEC's work. At the sole option of CLEC, Qwest will perform all necessary work at the device or terminal to provide Sub-loop access .

9.3.8.6 CLECs may access On-premises Wiring in one of the two following methods:

9.3.8.6.1 Where technically feasible, and where existing capacity on the Qwest terminal block exists, CLEC may establish a cross-connection to the On-premises Wiring or on-premises wiring that provides service to the CLEC end-user customer by using a terminal post (or equivalent) on the existing terminal block in a section of the terminal block unused by another CLEC or by Qwest. The CLEC using such terminals shall clearly label the terminals it uses. CLEC wiring will be neatly dressed. Access for CLEC wiring into any boxes enclosing the terminal blocks will be through generally accepted engineering practices, such as using conduit.

9.3.8.6.3 Where technically feasible, CLEC may install its own terminal block in the vicinity of the existing Qwest terminal block where the On-premises Wiring or on-premises wiring terminates. Where the existing terminals are contained within an enclosure or on a panel, and available space exists within the enclosure or on the panel, the CLEC may place the CLEC terminal block within the enclosure or on the panel. If no space exists on the enclosure or panel, the CLEC terminal may be placed at other available space near the Qwest panel or enclosure and the CLEC terminal may be connected to the Qwest enclosure by CLEC using generally accepted engineering practices, such as using conduit. The CLEC may then establish a connection to the On-premises Wiring or on-premises wiring that provides service to the CLEC end-user customer by cross-connecting the separate terminal block to the On-premises Wiring or on-premises wiring. When making a connection in the manner described in this paragraph, the CLEC may either pull existing On-premises Wiring or on-premises wiring through to its own terminal block where sufficient slack exists in the On-premises Wiring or on-premises wiring or, where insufficient, it may establish a field splice directly to the On-premises Wiring or on-premises wiring so as to permit cross-connection of the CLEC facility and the On-premises Wiring or on-premises wiring connecting to its customer. CLEC wiring will be neatly dressed and attached to cross connects and panels using generally accepted engineering practices.

9.3.8.7 At its option and when requested by a CLEC, Qwest will deploy a Sub-loop Single Point of Interconnection (SSPOI) at a MTE. A SSPOI is a cross-connect device that provides for the termination of multiple carriers' outside plant that serves a particular premises and allow for cross-connection to the On-premises Wiring or on-premises wiring.

The SSPOI so deployed shall be appropriately sized to serve all customers at the location and permit non-discriminatory access to CLECs. The charges for the SSPOI, to the extent not recovered by Qwest from the property owner, shall be recovered on a per-pair basis from all carriers connecting to the On-premises Wiring through the SSPOI. To the extent such charges are applicable, the CLEC may opt to make payments to Qwest in a manner similar to that as provided in Section 9.3.11.

9.3.8.7.1 No CLEC shall be required to use the SSPOI but shall have the option of using any technically feasible point of connection to the premises wiring. To the extent a SSPOI is established after

a CLEC begins providing service to a particular location, it shall be at the CLEC's option that its pre-existing wiring be re-terminated to the SSPOI. Furthermore, the CLEC may perform all work or, upon request and subject to applicable time and material charges, Qwest will re-terminate the wiring.

9.3.8.7.2 If a building owner requests that a SSPOI be deployed and Qwest will accommodate the request, Qwest is responsible for providing reasonable and appropriate advance notification to the CLEC that such a change will be made. Upon establishment of the SSPOI, the CLEC shall no longer be responsible to Qwest for any payments of charges for on-going use of On-premises Wiring. The CLEC will be responsible for negotiating terms for use of the on-premises wiring with the building owner or the building owner's agent.

9.3.8.8 When CLEC accesses On-premises Wiring, CLEC shall tag or otherwise clearly identify each cable pair currently used by CLEC to provide service to an end user customer at an MTE.

9.3.8.9 On-premises Wiring Rate Elements

9.3.8.9.1 Where CLEC employs only On-premises Wiring element(s) and such On-premises Wiring is twisted copper pairs, the CLEC shall pay Qwest the lesser of the payments per wire pair Qwest actually makes to the building owner or $0.0___ per pair used, regardless of the specific wiring configuration that may be present at a particular location.

9.3.8.9.2 For On-premises Wiring that is other than twisted copper pair, Qwest and the CLEC shall establish a price schedule for such On-premises wiring through the Special Request Process, but reflecting the direct cost of providing connectivity using the alternative connectivity. During such negotiation, Qwest will not deny or otherwise limit access to On-premises Wiring provided only that, one pricing is established, remittance will be made by CLEC for such On-premises Wiring as provided in Section 9.3.8.10 or otherwise mutually agreed.

9.3.8.9.3 Qwest shall defend and indemnify the CLEC for all costs associated with claims by a building owner, relating to use of the On-premises Wiring.

9.3.8.10 Billing and Remittance of Charges for On-premises Wiring

9.3.8.10.1 If On-premises Wiring is provided in conjunction with other Sub-loop elements (e.g., see 9.3.1.2) or the UNE-Loop or UNE-Platform, the pricing established for those offerings shall include the costs of any On-premises Wiring. In such case, Qwest will not assess a separate charge for On-premises Wiring and will not issue a separate bill for On-premises Wiring.

9.3.8.10.2 Where Qwest has complied with the terms of 9.3.8.2 and 9.3.8.3, preceding, CLEC shall capture and provide on a monthly basis a statement ("On-Premises Wiring Statement") specifying the terminal block, pair and cable used by CLEC to provide service by MTE address where Qwest owns or controls On-premises Wiring. The On-Premises Wiring Statement may, at CLEC's option, report all terminal block, pair and cable used by CLEC in all MTEs in Qwest's service territory. The content, media and format of such On Premises Wiring Statement shall be mutually acceptable to Qwest and CLEC.

9.3.8.10.3 If Qwest fails to make a determination of ownership or control of on-premises wiring or fails to stencil, mark or tag On-premises Wiring as provided in Section 9.3.7.2 and 9.3.7.3, CLEC shall not be required to submit an On-premises Wiring Statement. In such event, CLEC shall not be required to remit any charges or fees to Qwest for Access to On-premises Wiring unless and until Qwest makes a determination of ownership or control of on-premises wiring and stencils, marks or tags On-premises Wiring.

9.3.8.10.4 CLEC shall remit to Qwest rates and charges as determined by the On-premises Wiring Statement.

9.3.8.11 Access to On-premises Rights of Way. A CLEC shall have the right to access equipment rooms, telecommunications closets, risers, laterals, terminal enclosures, conduit and any other defined area that is or has been specifically identified for use or used by Qwest as part of Qwest's transport and distribution network or could otherwise be construed to provide right to use space on or in a property. To the extent that any vacant space exists within any right of way used by or available to Qwest, within private property, such space will be available to a requesting CLEC on a non-discriminatory basis. To the extent Qwest makes direct payments to the building owner for use of or access to on-premises right of way, the CLEC will compensate Qwest for a proportionate share of the right of way space used by the CLEC. Should Qwest believe that its

agreement with the building owner imposes any limitation on third party use of the right of way that might prevent the CLEC from using on-premises right of way, Qwest will disclose the limitations imposed by the building owner to the CLEC within 10 days of the CLEC notifying Qwest that it will be placing facilities in the right-of-way. Qwest will also support changes necessary in its agreement with the building owner so as to permit CLEC use of the right of way. Where the CLEC makes payment to Qwest for the use of right of way provided to Qwest by a building owner, Qwest shall defend the CLEC and indemnify the CLEC for all costs associated with claims by a building owner, relating to use of the right of way.

9.3.9 Repair and Maintenance

Qwest will maintain all of its equipment and CLEC is responsible for maintaining all of its equipment, if any, at the terminals.

COVER PAGE FOR EXHIBIT 3

Keating Testimony

BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.,	)	Docket No. UT-003120
Complainant,	)	
v.	)	
QWEST CORPORATION,	)	
Respondent.	)	

TESTIMONY OF

DANIEL C. KEATING, III

ON BEHALF OF

AT&T COMMUNICATIONS

OF THE PACIFIC NORTHWEST, INC.

MARCH 19, 2001

Q. PLEASE STATE YOUR NAME AND ADDRESS

A. Daniel C. Keating, III, P.O. Box 752, Bedminster, NJ 07921.

Q. WHAT IS YOUR POSITION AT AT&T?

A.. I am a District Manager-Network Implementation and Project Management with AT&T Corp. focusing on the area of Multiple Dwelling Unit infrastructure.

Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.

A. I received a Bachelor of Science degree from Rensselaer Polytechnic Institute in 1983. Following summer employment as a lineman for Southern New England Telephone (SNET), I was hired by SNET's outside plant Construction Methods Organization in 1983. In that capacity, I was responsible for outside plant product approvals, vendor selection, and the development of standard practices and procedures for the construction of SNET's outside plant network. In 1984, I became SNET's Outside Plant Planning Engineer for the Manchester, CT area. In 1985, I joined AT&T as an Account Executive – Outside Plant Products. From there I became Sales Staff Manager – Transmission and Outside Plant Products for the NYNEX, Bell Atlantic, BellSouth, SNET, and Ameritech accounts, until 1991 when I assumed the position of Account Executive – Transmission and Outside Plant Products. In 1994, I assumed the position of Offer Manager – Consumer Broadband Networks at AT&T. In 1995, I became District Manager with responsibilities that included engineering, construction, right-of-way, route planning and franchising for the Southwest Region. I then was a project manager for Local Number Portability from 1996 to 1998. I then managed the Information

Technology systems development work for AT&T's long distance network from 1998-2000. Since October 2000, I have been a project manager for AT&T's deployment of MDU infrastructure, providing network connectivity from AT&T's local switches to various MDUs across the U.S. Throughout my tenure, I have had extensive technical experience with devices used in providing network connectivity to MDUs and other network terminating locations.

Q. PLEASE DESCRIBE THE NATURE OF YOUR TESTIMONY.

A. It is my understanding that Qwest has been blocking AT&T's access to certain Minimum Point of Entry Terminals/Network Interface Devices ("MPOE Terminals/NIDs") in Bellingham, Washington. I have been told that Qwest has been padlocking those MPOE Terminals/NIDs, as well as pulling out AT&T wiring and conduit that is contained in those MPOE Terminals/NIDs. My testimony will focus on why AT&T needs access to the MPOE Terminals/NIDs in order to fulfill its goals of bringing competitive local service to Washington consumers. After explaining how AT&T accesses the MPOE Terminals/NIDs and connects to the internal customer premises wiring, my testimony will focus on the technical feasibility of AT&T's connections through the MPOE Terminals/NIDs.

Q. IS THERE ANY TECHNICAL DIFFERENCE BETWEEN AN MPOE TERMINAL/NID IN WHICH QWEST OWNS THE INTERNAL CUSTOMER PREMISES WIRE AND AN MPOE TERMINAL/NID IN

WHICH THE BUILDING OWNER OWNS THE INTERNAL CUSTOMER PREMISES WIRE?

A. No. The technology is identical; the owner merely differs.

Q. **BECAUSE QWEST APPARENTLY DEFINES THE MPOE TERMINAL/NID DIFFERENTLY THAN BOTH THE FEDERAL COMMUNICATIONS COMMISSION AND AT&T, PLEASE DESCRIBE WHAT AT&T IS ATTEMPTING TO ACCESS.**

A. AT&T is attempting to access the facility utilized to connect Qwest's loop plant to the internal customer premises wiring. Consistent with FCC mandate, AT&T calls that facility the MPOE Terminal/NID. As the FCC acknowledges, MPOE Terminals/NIDs usually come in many shapes and forms. However, they are usually either "open" -- e.g., in a utility closet, *see* Exhibit DCK-2 or "closed" -- e.g., in some kind of metal or plastic enclosure. *See* Exhibit DCK-3. Qwest has primarily been disconnecting AT&T wiring and conduit from, as well as locking, the closed boxes found at smaller residential campus style MTEs. My discussion will focus on the mechanics and technical feasibility of connecting to those type of boxes. In a closed MPOE Terminal/NID, the internal customer premises wiring is usually connected to the Qwest loop plant wiring in a "punch down" block (a wire terminating device which provides spaces to connect wires). There is also a separate "network" side of the MPOE Terminal/NID which AT&T does not touch, because the internal customer premises wiring is not contained on that side of the MPOE Terminal/NID.

Q. WHY DOES AT&T NEED TO ACCESS THE INTERNAL CUSTOMER PREMISES WIRING AT THE MPOE TERMINAL/NID?

A. The MPOE Terminal/NID is the farthest possible point practical that AT&T can run its own network. At the end of AT&T's network, there is usually an AT&T Network Interface Unit ("NIU") which runs to a "cross connect." That cross-connect represents the ending point of the AT&T network wire and is the place where AT&T connects with the internal customer premises wiring. See Exhibit DCK-4. AT&T needs to access the internal customer premises wiring to attach that wiring to AT&T's cross-connect in order to establish AT&T service for a customer located in an MTE. Because the internal customer premises wiring is contained in the Qwest MPOE Terminal/NID where Qwest is the incumbent telephony provider, AT&T must access the MPOE Terminal/NID. AT&T also seeks access at the MPOE Terminal/NID because it offers a technically feasible way for the incumbent LEC (Qwest in this instance) to regain the customer's internal wiring if Qwest recaptures that customer or for other CLECs to obtain the internal wiring if they win over the customer.

Q. WHAT IS AT&T'S PROCESS FOR ACCESSING THE MPOE TERMINAL/NID?

A. In closed MPOE Terminals/NIDs, AT&T utilizes a two-step process to access the internal customer premises wiring in the MPOE Terminal/NID. Before AT&T markets a building to potential customers, it prepares the building by running a one inch weather proof conduit from its cross connect box to the Qwest MPOE Terminal/NID. It usually utilizes a pre-serrated knock out on the MPOE

Terminal/NID or other contemplated access point on which to connect the conduit between Qwest's MPOE Terminal/NID and the AT&T cross-connect. Then when AT&T captures a customer, it seeks access to the internal customer premises wiring located in the MPOE Terminal/NID and makes its connection to that wiring.

Q. WHAT DOES THE INTERNAL CUSTOMER PREMISES WIRING LOOK LIKE AND WHERE IS IT RUN?

A. Internal customer premises wiring usually consists of individual wires or groups of twisted pair copper wire which run from the MPOE Terminal/NID to the individual building units. The internal customer premises wiring is usually run through the infrastructure of the multi-tenant environment (e.g. behind walls, under stairs) at the time the building is constructed.

Q. IN ACCESSING QWEST'S MPOE TERMINAL/NID, IS AT&T AT ALL UTILIZING THAT MPOE TERMINAL/NID?

A. Not really. There is a punch down block (a block in which various wires are tied down) in the MPOE/NID where the internal customer premises wiring is connected to the wiring from the Qwest outside network. AT&T does not use this block except to take the existing internal customer premises wiring off of it. Once AT&T removes the wire, the AT&T technician then connects the internal customer premises wiring to AT&T's own wiring using a Scotchlok process described below. This has the effect of extending the internal customer premises wiring so that AT&T can run it from the Qwest MPOE Terminal/NID to AT&T's

cross connect to make a connection with AT&T's network wiring. AT&T runs the wiring through the weatherproof conduit that AT&T had previously placed between its cross-connect and the Qwest MPOE Terminal/NID. Accordingly, AT&T only uses the existing MPOE Terminal/NID as a connection location to extend the internal customer premises wiring so that it can reach the AT&T cross-connect where its network wiring is housed.

Q. WHAT DOES AT&T USE TO CONNECT THE INTERNAL CUSTOMER PREMISES WIRING TO ITS OWN NETWORK WIRING?

A. Where AT&T needs to access a unit's internal customer premises wiring, AT&T has been utilizing a Scotchlok brand insulated gel filled "buttsplice" seamless connector with a polyolefin insulator. This material is impervious to water, corrosion, or serious modifications in temperature. *See* Exhibit DCK-5. The effect is that there is both a mechanical and electrical seal causing a permanent connection between the two wires placed in the Scotchlok. The Scotchlok basically creates a seal that seams the two wires together. This concept of splicing wires has existed for some time and is readily performed in the industry. There are a number of similar products such as Lucent's 709 *QUICK SNAP* Connectors. *See* Exhibit DCK-6.

Q. ARE THERE OTHER METHODS OF CONNECTING TO THE INTERNAL CUSTOMER PREMISES WIRING?

A. Sure. AT&T could place its own "punch down" block in the Qwest NID so that we could cross-connect the internal customer premises wiring with our network

wire that we would run from the cross-connect. However, to set the block, we would actually be placing our equipment in the Qwest box.

Q. COULD AT&T PLACE ITS OWN PUNCH DOWN BLOCK IN A BOX OUTSIDE THE QWEST MPOE TERMINAL/NID?

A. That is what AT&T is doing already. To reiterate what AT&T is doing in the MPOE Terminal/NID, it is merely running an extension of the internal customer premises wiring from the MPOE Terminal/NID through weatherproof conduit to its own cross-connect box to connect its network wire to the internal customer premises wire.

Q. IF AT&T IS USING ITS OWN CROSS-CONNECT BOX, WHY DOES IT NEED TO UTILIZE THE SCOTCHLOK PROCESS?

A. Because the internal customer premises wiring is usually only long enough to extend to Qwest's MPOE Terminal/NID, and not beyond. Especially in construction before 1996, neither building owners nor the ILEC anticipated local telephony competition. Accordingly, installers and/or contractors only ran enough wire into the ILEC's MPOE Terminal/NID to attach to the ILEC's block. Because AT&T needs to expand the internal customer premises wiring to its own cross-connect box, it must increase the size of the internal customer premises wiring by Scotchloking additional wiring to the original wiring.

Q. WHAT ABOUT QWEST'S SUGGESTION THAT IT PLACE A FIELD CONNECTION POINT NEAR THE CURRENT MPOE TERMINAL/NID

WHERE AT&T CAN ACCESS THE INTERNAL CUSTOMER PREMISES WIRING?

A. It seems rather silly to have another cross-connect point where one already exists at the AT&T cross-connect. However, in certain circumstances, e.g., once AT&T acquires numerous customers in a certain MTE, as long as the cost is reasonable and provisioning would not delay AT&T's attempts to provide competitive local service (e.g., a day or two), there is no harm if both parties agree to put in a new cross-connect. On the flip side, the Qwest MPOE Terminal/NID already provides the internal customer premises wiring that AT&T needs to access. At a Field Connection Point, AT&T would do the same thing that it is doing at the MPOE Terminal/NID: disconnect the internal customer premises wiring from the Qwest network wire. Accordingly, I do not see any reason that Qwest should mandate a Field Connection Point except to add cost, complicate the interconnection, and make it more difficult for the CLEC to access the internal customer premises wiring.

In addition, Qwest would apparently require a "dual truck roll" if a Field Connection Point were used. This would mean that every time AT&T wishes to access the internal customer premises wiring, Qwest would also dispatch a technician to move the extended internal customer premises wire from the MPOE Terminal to the Field Connection Point, or common box. Again, there is absolutely no technical reason to have Qwest move the internal wiring from its NID to a common box or "Field Connection Point"; all it would accomplish would be to frustrate AT&T's efforts to provide competitive services.

Q. WHAT WOULD HAPPEN IF AT&T WERE NOT ALLOWED TO UTILIZE THE MPOE TERMINAL/NID?

A. If AT&T were not allowed to enter Qwest's enclosure, AT&T would be required to access the internal customer premises wiring through another means. In most cases, this would entail AT&T placing its own internal customer premises wiring inside the MTE. This effort would be expensive, time consuming and unnecessary because it is redundant wiring. AT&T would have to run this redundant wiring behind walls and under stairs. This would certainly not motivate any building owner to allow AT&T to provide competitive local service. Also, because AT&T would have to expend substantial funds for construction of such wiring, it would not be able to economically compete with Qwest.

Q. WHERE COULD AT&T ACCESS THE INTERNAL CUSTOMER PREMISES WIRING IF IT DID NOT ACCESS IT AT THE MPOE TERMINAL/NID?

A. In most small to medium sized residential MTEs, once the building construction has been completed there is no access point to customer premises wiring except for the MPOE/NID on the outside of the building and the RJ-11 jack (the phone jack found at the individual MDU unit). Usually there is "home run wiring" meaning there is no connection point from the MPOE/NID to the RJ-11 jack. Accordingly, to gain access would involve breaking holes in the interior walls to "fish out" the internal customer premises wiring. Then AT&T would have to run its own wiring and make a splice to the existing wiring.

Q. HOW DOES AT&T KNOW IT IS ACCESSING THE CORRECT INTERNAL CUSTOMER PREMISES WIRE IN THE MPOE TERMINAL/NID?

A. When the technician performs the installation at the customer premises, the technician first verifies the location of the telephone connection in the customer's unit. Then, the technician places a tone at the customer's jack. The technician then moves to the MPOE Terminal/NID and, utilizing the tone, verifies that they have the correct internal customer premises wiring. Many times the internal customer premises wiring is also labeled. After the technician performs the connection to the AT&T network, the AT&T installer then goes back to the customer suite and performs functional and service assurance tests including drawing dial tone, automatic number identification, dialing a number and establishing voice communication, testing for incoming calls and testing customer ordered features to assure the correctness of the connection.

Q. IS THERE ANY OTHER WAY TO ACCESS THE INTERNAL CUSTOMER PREMISES WIRING BESIDES THE METHODS YOU HAVE DISCUSSED ABOVE?

A. No, besides the methods discussed above (drilling into walls and fishing for the internal customer premises wire or accessing the MPOE Terminal/NID), there is no other way for AT&T to access the internal customer premises wiring that I know of.

Q. QWEST HAS ASSERTED THAT AT&T'S METHOD OF ACCESS WOULD DAMAGE QWEST'S NETWORK, PUT CUSTOMERS OUT OF SERVICE AND OPERATE TO DENY ACCESS TO OTHER CARRIERS. COULD YOU ADDRESS THESE ALLEGATIONS?

A. Sure. As AT&T is merely attempting to access the internal customer premises wiring, it is not touching the electrical side of the MPOE Terminal/NID where Qwest's network is located. Accordingly, I do not see how the AT&T protocol could "damage Qwest's networks."

As to putting customers out of service, if AT&T technicians followed the proper protocol of insuring that they are connecting the correct customer to AT&T's network, there is no way for AT&T to place customers out of service, except briefly and consensually for the customer who the AT&T technician is switching from Qwest to AT&T. Furthermore, if AT&T technicians follow proper protocol, there is no reason that AT&T would "deny access to other carriers." All another carrier would have to do is disconnect the AT&T connection and connect to its own network wire or cross-connect. In the case of Qwest recapturing a customer, all Qwest would have to do is remove the internal customer premises wiring and re-punch it down on the MPOE Terminal/NID block with its network wire. In sum, in accessing the internal customer premises wiring, AT&T is not damaging Qwest's network, putting customers out of service, nor operating to deny access to other carriers, unless the technician is not utilizing proper protocol.

Q. IS IT TECHNICALLY POSSIBLE FOR AT&T TO CAUSE CUSTOMER OUTAGE UNDER THE TONE TESTING TECHNICAL PROTOCOL YOU DESCRIBED ABOVE?

A. No.

Q. IS THE METHOD AT&T UTILIZES TO ACCESS INTERNAL CUSTOMER PREMISES WIRING WATER TIGHT?

A. Yes, AT&T has been using conduit that insulates any wiring from outside elements including water and weatherproofs the connection, as well as the appropriate connectors. Both are rated for exterior use and, when installed correctly, should be weather tight.

Q. IS AT&T USING THE METHOD OF DIRECTLY CONNECTING AT THE MPOE TERMINAL/NID IN OTHER PARTS OF THE COUNTRY?

A. Yes, AT&T is successfully utilizing the direct connect method of accessing enclosure housing in the MPOE Terminal/NID in other ILEC regions such as Verizon and SBC regions.

Q. IN MTEs WHERE AT&T OWNS THE MPOE TERMINAL/NID, DOES AT&T ALLOW ACCESS TO THE MPOE TERMINAL/NID FOR OTHER CARRIERS?

A. Yes. In Washington, AT&T allows Qwest and other competitive carriers to access MPOE Terminals/NIDs by any technically feasible method including using

a pre-serrated knockout to install wiring. AT&T also supplies a connecting block assignment for a competitor's wiring at that competitor's request.

Q. TO YOUR KNOWLEDGE, HAS AT&T EVER INSTALLED LOCKS ON AN MPOE TERMINAL/NID?

A. Not to my knowledge.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. There is no reason why it is technically infeasible for AT&T to directly access internal customer premises wiring at MTEs. The concerns of Qwest, such as network integrity, are greatly overstated by Qwest, and certainly will not occur if both AT&T and Qwest technicians utilize and adhere to proper technical protocol.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?

A. Yes.